

**Committee: Council**

**Date of meeting: 5 December 2018**

<b>Subject:</b>	Community Governance Review – Hersham
<b>Lead Officer:</b>	Head of Democratic Services
<b>Portfolio Holder:</b>	Leader – Councillor T.G. Oliver
<b>Link to Council Priorities:</b>	All
<b>Exempt information:</b>	None
<b>Delegated status:</b>	For resolution

**Executive Summary:**

Further to the report to the Meeting of the Council on 18 July 2018, this report updates Members on the conduct of a Community Governance Review including the results of the consultation, and seeks a decision on whether or not to establish a new parish (community) council for Hersham.

**Recommendation: that the Council is asked to:**

- (a) note the detailed report on the undertaking of the Community Governance Review for Hersham and the outcome of the consultation;**
- (b) having regard to the Community Governance Review, and the outcome of the consultation, determine either:**
  - that a parish council for Hersham be established confirming its name and boundary;**
  - OR**
  - that no change to current arrangements be made; and**
- (c) delegate authority to the Head of Democratic Services to take the necessary next steps and to inform the electors and organisations affected by the proposal of the Council's decision.**

**Report:**

- 1. Budget and policy framework**
  - 1.1 The conduct of a Community Governance Review (CGR) and the associated decisions about the formation or otherwise of new parish councils is a matter for Council.
- 2. Background**
  - 2.1 The Local Government and Public Involvement in Health Act 2007 (as amended by the Legislative Reform (Community Governance Review) Order 2015), devolved decision-making powers for parish area reviews from what is now the Local Government Boundary Commission for England (LGBCE)

to principal councils, subject to adherence to regulations and directions from the (then) Department for Communities and Local Government and the Electoral Commission. Principal councils in this context are specifically district / borough councils in England. The process for considering a change is now termed a Community Governance Review (CGR). These powers include the creation and grouping of parishes and everything pertaining to their electoral arrangements.

2.2 Following completion of a CGR, should the Council decide to change the electoral arrangements for Elmbridge and create a parish council for Hersham, a Community Governance Reorganisation Order will be made, to give effect to the change. The first parish election would be held in May 2019. If the Council decides to take no action / not to support the creation of a new parish council, the duty to respond to another Community Governance Petition does not arise if the new petition is received within a two-year period following completion of the first Review (s.83(3) Local Government and Public Involvement in Health Act 2007). The area requested by the new petition does not have to exactly mirror the previous review area either for the duty to be disapplied: it only needs to “cover the whole or a significant part of the area to which the previous review related”. The Council would, however, retain a discretion and a power to carry out a second review (but not a duty) under sections 82 and 85 of the Act.

2.3 On 27 February 2018, Elmbridge Borough Council received a valid petition from the Hersham Community Council Steering Group, signed by 731 local government electors, requesting that a CGR is conducted to consider the establishment of a parish council for Hersham, to be called the ‘Hersham Community Council’. A map of the proposed area for a parish council for Hersham was included in the Petition.

2.4 The Petition proposes that a proposed Hersham Community Council would cover the following areas within the Borough of Elmbridge:

- the Ward of Hersham Village (Polling Districts MA, MB and MC);
- part of the Ward of Esher (Polling District AC)
- part of the Ward of Oatlands and Burwood Park (Polling District OD);
- part of the Ward of Weybridge St. George’s Hill (Polling District PD);
- part of the Ward of Cobham and Downside (Polling District HC).

It is also located within the Hersham Division of Surrey County Council and forms part of the Esher and Walton Parliamentary Constituency. A map of the proposed Hersham Community Council area is attached at **Appendix ‘A’**.

2.5 The petition indicated that ‘We the undersigned local government electors in the area shown shaded on the map overleaf call on Elmbridge Borough Council to establish a parish council to be called Hersham Community Council for the area defined overleaf.’ The petition states that ‘a new Community Council would give substantial power back to the people of Hersham; create a strong identity; receive up to 25% of money collected from local planning charges (community infrastructure levy – CIL) and use

this money for locally agreed projects to benefit the whole community; have the authority and ability to apply for grants for specific local causes; encourage and support new and existing groups – directly, efficiently, financially, openly and focused on Hersham.’

- 2.6 The Hersham Community Council Steering Group have indicated that there is no suggestion that a Hersham Community Council would generally take on roles / responsibilities which are currently more appropriately provided by the Borough and County Councils.
- 2.7 The Hersham Community Council Steering Group responded to the consultation setting out the aims and objectives of the proposed Community Council and their response is reproduced within the outcome of the consultation set out later in this report.
- 2.8 At its meeting on 18 July 2018, the Borough Council approved a Terms of Reference for the Review and delegated authority to the Head of Democratic Services to conduct the CGR and to take all necessary action to comply with the Council’s statutory obligations in that regard. The original Petition (with names and addresses redacted) was included in the Terms of Reference for the Review which, for ease of reference, is attached as **Appendix ‘A’** to this report.

### 3. **Guidance and criteria to be used for a CGR**

- 3.1 In undertaking the Review, the Council must be guided by Part 4 of the Local Government and Public Involvement in Health Act 2007, the relevant parts of the Local Government Act 1972, Guidance on Community Governance Reviews issued in accordance with Section 100(4) of the Local Government and Public Involvement in Health Act 2007 by the Department of Communities and Local Government and The Electoral Commission in April 2008.
- 3.2 When undertaking a CGR, the Council must have regard to the need to secure that community governance in the area under review:
- Reflects the identities and interests of the community in that area; and
  - is effective and convenient,

and the Council should take into account influential factors such as the impact of community governance arrangements on community cohesion and the size, population and boundaries of a local community or parish.

- 3.3 The Council is also obliged to consult the local government electors for the area under review and any other person or body which appears to have an interest in the review and must take into account any representations received in connection with the review. The Guidance indicates that this might include local businesses, as well as local public and voluntary organisations.

3.4 The Terms of Reference for the Review referred to earlier, contained background information, the original petition and set out the process for the Review, the consultation themes, timetable and list of consultees.

#### 4. **Consultation**

4.1 As already referred to, when undertaking a Review, the Council is required to consult the local government electors for the area under review as well as any other person or body which appear to have an interest in the Review.

4.2 The consultation, in order to be inclusive, open and transparent, included local businesses as well as local public and voluntary organisations. Although such bodies would not be responsible for paying the additional precept should a Parish Council be established, they might want the opportunity to provide their views on whether a Parish Council would improve the community governance arrangements in the area.

4.3 The consultation sought views on whether or not a Parish Council for Hersham should be established. Views were also sought on other related aspects of community governance arrangements in the area, such as funding by levying a precept on the Council Tax paid by the residents within the boundary of a parish council and the potential number of parish councillors. The most effective and efficient way of capturing the views of the local government electors and other interested parties was to undertake a consultation over a 12 week period, which could be completed on-line, or responding by e-mail or by letter.

4.4 A copy of the consultation questions and the outcome is attached at **Appendix 'B'**.

4.5 The Terms of Reference for the Review documentation in paper form, was sent to 9,785 registered electors within the area of the Review, plus the individuals / groups listed in the Terms of Reference. Specifically, 9,785 electors; 48 Borough Councillors and the two Members of Parliament covering the Elmbridge area; two County Councillors together with Surrey County Council; Claygate Parish Council; the Electoral Commission; the Local Government Boundary Commission for England; five Residents' Associations; seven churches; 10 schools; 11 nursery/preschools; Neighbourhood Watch Elmbridge and 194 businesses within the area of the review were sent or emailed the Terms of Reference and invited to give their views. In total, 10,067 electors / interested individuals / businesses / groups were sent the Terms of Reference of the Community Governance Review and invited to give their views by way of the consultation.

4.6 A dedicated web page on the Borough Council's website was set up that contained the background information and a map of the proposed area under Review.

4.7 The consultation took place over a 12 week period and ended at 5p.m. on Tuesday 23 October 2018.

- 4.8 After validating the responses and discounting a very small number of anonymous or duplicate responses, the total number of responses is 632, which represents a response rate of 6.46%.
- 4.9 The outcome of the consultation is set out in detail at **Appendix 'B'**.

### **Considerations when undertaking a Review**

## **5. Community Governance, Identities and Interests of Local Area**

- 5.1 Under Section 93 of the Local Government and Public Involvement in Health Act, a Principal Council must comply with various duties when undertaking a Review, including:
1. Having regard to the need to secure that community governance within the area under review:
    - a. Reflects the identities and interests of the community in that area
    - b. Is effective and convenient;
  2. Taking into account any other arrangements, apart from those relating to parishes and their institutions that have already been made, or that could be made for the purposes of community representation or community engagement in respect of the area under review;
  3. Taking into account any representations received in connection with the Review.
- 5.2 Size, population and boundaries are linked to both community cohesion and the identity of local communities, but more specifically to community governance being effective and convenient. The guidance stresses that whatever boundaries are selected they need to be, and likely to remain, easily identifiable and reflect the “no man’s land” between communities represented by areas of low population or barriers such as rivers, roads or railways.
- 5.3 The guidance acknowledges that how people perceive where they live is significant in considering the identities and interests of local communities and depends on a range of circumstances, often best defined by local residents. The pattern of daily life in each of the communities, the local centres for education, and childcare, shopping, community activities, worship, leisure pursuits, transport facilities and means of communication will have an influence on the extent to which all of the residents in the proposed area share a sense of community although the focus of people's day-to-day activities may not be reflected in their feeling of community identity, if for instance overwhelming historic loyalty is to another feature.
- 5.4 In addition, the Council is required to take account of any statutory guidance published by the Secretary of State. In March 2010 the Department for Communities and Local Government and the Local Government Boundary Commission for England published such Guidance on Reviews.

- 5.5 Whilst the guidance is generally supportive of parish councils, it is not prescriptive and does not state that they should be routinely formed. Indeed, parts of the guidance stresses that the statutory duty is to take account of any representations received and gives the view that where a council has conducted a review following receipt of a petition, it will remain open to the Council to make a recommendation which is different to the recommendation the petitioners wish the council to make. It also acknowledges that a recommendation to abolish or establish a parish council may negatively impact on community cohesion and that there is flexibility for councils not to recommend that the matters included in the petition must be implemented if they judge that to do so would not be in the interests of either the local community or surrounding communities and where the effect would be likely to damage or undermine community cohesion.
- 5.6 It is important therefore, that the Council takes into consideration all the matters required by the legislation and makes its decision on the outcome of the Review based on the evidence presented, including the outcome of the consultation, together with the issues and evidence set out in this report.
- 5.7 In terms of community governance arrangements already in place, a Surrey County Councillor represents the Hersham Division; three Elmbridge Borough Councillors represent Hersham Village Ward; and Hersham is represented by the Member of Parliament for the Esher and Walton Constituency. The Surrey County Council Local Committee enables authorities to fulfil their community governance roles, along with other examples such as the Borough's Esher and Hersham Local Spending Board. Specifically, the established Esher and Hersham Local Spending Boards' remit includes distributing Community Infrastructure Levy (CIL) funds to local projects. It is worth noting, for example, that election turnout for the area under review is relatively strong when compared with others in the Borough of Elmbridge, as illustrated by the turnout figures of the Borough Council Elections held in May 2018, attached at **Appendix 'C'**.
- 5.8 It is difficult to capture the essence and activities in entirety of a particular area but for the purpose of this Community Governance Review, the main aspects are summarised below.
- 5.9 Hersham has a Centre with a supermarket and local businesses; Centre for the Community; Technology Park; Hersham Village Market; and active places of worship. Indeed, the Walton and Hersham Foodbank can be accessed from St. Peter's Church.
- 5.10 It can be seen that the local population within the area of Review has an aptitude to form local associations and partnerships to address local issues and that there is a range of such groups in the Hersham area. These include residents' groups, specialist and general interest groups and faith groups / organisations, a range of mother and toddler groups etc. The views of many of these groups and organisations were sought in respect of the

Community Governance Review consultation. There is clearly a number and range of organisations operating in the Hersham area, or providing services for the local electorate, all of which support the existing identities and interests of the local area.

- 5.11 It would appear from the information available, that the residents of Hersham make good use of the various methods for engagement to make their views known to the Council, asking questions and interacting with their ward Councillors regarding a range of issues. This is evidenced by the following examples.
- 5.12 High turnout of local residents to the 'Your Voice Matters' event held on 1 October 2018 at the Hersham Centre.
- 5.13 There is an active social media presence from Hersham residents and specifically, a high level of interaction with Borough and County Councillors through this platform is consistently evident.
- 5.14 Hersham residents are active in the Borough Council's Residents' Panel, contributing ideas and providing feedback on a range of Council services and proposals.
- 5.15 The Borough Council has held a number of Elmbridge Leisure Live events over recent years. One such event was held on The Green, Hersham, in the summer of 2016. There were over 40 stands with an estimated 3,000 to 3,500 people attending, making it one of the most successful of these events to date.
- 5.16 A number of Hersham businesses are members of the Elmbridge Business network. The owners of the Hersham Technology Park sit on the Elmbridge Business Leaders Board.
- 5.17 The Hersham in Bloom programme is active and thriving. Hersham in Bloom have worked with a local supermarket and are also currently seeking new participants to further expand their reach.
- 5.18 The examples referred to in the above paragraphs all contribute to evidence that the existing arrangements for community governance, community cohesion, together with the identity and interests of the local area are strong.
- 5.19 All this evidence would appear to confirm that a healthy contribution is made by Hersham residents to the decision-making activities of the Council, to the management and maintenance of their neighbourhood, to overcome difficulties and benefit community cohesion. It could be concluded that the existing community governance arrangements reflect the identities of the local population affected by the proposal. The majority of respondents to the consultation are satisfied with the existing arrangements and do not support the creation of a parish council for Hersham.

## 6. Efficiency and Effectiveness

- 6.1 As stated previously, an important factor for the Council to take into account is the extent to which the community governance arrangements in place and those being proposed are effective and convenient. The Guidance clarifies that a parish should reflect a distinctive and recognisable community of place, with its own sense of identity and that whatever boundaries are selected, they need to be, and likely to remain, easily identifiable.
- 6.2 The current Ward boundaries have been in place since the Local Government Boundary Commission for England's Electoral Review completed in 2016. The number of Borough Councillors were reduced from 60 to 48 and accordingly, there were changes to the Ward boundaries across the Borough of Elmbridge. The new Ward of Hersham Village was created at this time. Prior to this Electoral Review, the Wards of Hersham North and Hersham South covered a large proportion of the area now known as Hersham Village, with differing boundaries. A portion of the former Ward of Hersham North now forms part of Esher Ward.
- 6.3 The boundaries for the proposed parish council are not easily identifiable in all places for the conduct of effective and efficient elections because the boundary does not exactly match those of existing Wards. Another Local Government Boundary Review would be needed to achieve Ward boundaries that were coterminous with the parish.
- 6.4 Of the consultees that supported the creation of a Parish Council for Hersham, the majority of this group of responders were generally in favour of the proposed name 'Hersham Community Council'. However, a proportion of those responders do not consider Burwood Park or Cobham to be linked by community identity to be encompassed within the area of Hersham.
- 6.5 With regard to a precept value, the Terms of Reference referred to the Claygate Parish Council levy being a precept of £48,860 on the Council Tax paid by the residents of the Parish which is £14.15 for a Band D property. In addition, the Council pays the Parish £2,600 as a grant which compensates the Parish for the loss suffered as a result of the Localisation of Council Tax Benefits (a reduction in the billable number of Band D properties from the discounts given as 'Council Tax Benefits'). This gives a guideline only as the precept could only be determined once a boundary and number of properties for a new parish was known. The extent to which local electors are willing to pay an additional precept for a new parish council is one of the key factors for the Council to consider and the consultation exercise clearly shows that a majority of respondents were not willing to do so on the grounds that there was no discernible benefit and that they could not afford it.
- 6.6 A large proportion of respondents to the consultation expressed concern about the precept that a new parish council might raise and more specifically, that the proposal did not sufficiently justify the formation of a

body to deal with issues in a more effective or efficient manner than was in place already. It could be deduced, therefore, that a newly created parish council for Hershams would not be effective or convenient based on the lack of real evidence about the extent to which the parish council could viably deliver quality services not already being provided by the Borough and County Councils.

- 6.7 Ultimately the key question asked of the electors and other organisations about the proposed new parish council for Hershams was whether they thought the existing community governance arrangements in Elmbridge should remain or whether a new parish council should be created. The outcome of the consultation was that 55.7% of those who responded thought that the existing arrangements should be kept and 43.8% wanted to change the arrangements to create a new parish council for Hershams. 0.5% of respondents were unsure.
- 6.8 The cost of parish councils should also be referred to. Whilst the delivery of a parish election is undertaken by the Borough Council, the cost element in respect of the parish council election is borne by the Parish Council itself. It is not necessarily appropriate to compare the election costs of Claygate Parish Council as the electorate numbers for the proposed parish council for Hershams are greater.
- 6.9 If a new parish council wished to provide new or additional services, they would have to raise a precept which would not be in keeping with the responses from the consultation about electors not being willing to pay an additional precept because they can see no clear benefit.
- 6.10 With regard to a precept, out of the 629 respondents, 271 did not want to pay an additional precept; 187 supported paying an additional precept; and 171 made no comment in this regard.

## **7. Other forms of community representation**

- 7.1 The Council is obliged to consider other forms of community governance or representation that could be put in place when undertaking this Review. It would be possible for various alternative forms of engagement forums to be established instead of a parish council. A specific purpose for such an engagement forum would need to be identified that is currently unmet by the existing governance arrangements. Members will be aware that other forms of community representation such as the Local Committee and Community Infrastructure Levy (CIL) Local Spending Boards already exist with differing status, format and management arrangements. Clearly, it would be for Members to consider whether they feel there is a need for any other forms of community governance or representation.

## **8. Conclusions**

- 8.1 Taking into consideration the responses from the consultation, evidence gathered and summarised in this report, the following conclusions are made:

- The Hersham Community Council Steering Group submitted a petition signed by 731 local government electors from within the area under Review, seeking the creation of a parish council for Hersham, to be known as the Hersham Community Council. Their consultation response, setting out the aims and objectives of the Community Council is reproduced within the consultation outcome;
- The outcome of the Community Governance Review consultation does not show broad support for the creation of a new parish council for Hersham;
- Given a response rate of 6.46% and that every registered elector received a paper copy Terms of Reference and consultation, the level of non-response appears to indicate that the issue of a new parish council does not sufficiently engage the electorate in the area and has not shown a wider demand for change in the governance arrangements;
- No obvious gaps in representation or resident involvement in civic affairs or other democratic shortcomings have been identified by petitioners or respondents that would naturally be filled by the creation of a community council. To this extent, it remains unclear what civic space a community council is intended to occupy;
- The existing community governance arrangements in Hersham appear to reflect the identities and interests of people in Hersham and are effective and convenient and are supported by a majority of those who took part in the consultation.

## 9. **Communicating the outcome of the Review**

- 9.1 As soon as practicable after making a decision as to the outcome of the Review, the Borough Council must publish its decision and its reasons for taking that decision and take sufficient steps to ensure that persons who may be interested in the review are informed of the decision and the reason for it. Neither the legislation nor Guidance specifies who should be informed or how this is to be achieved.
- 9.2 The decision will be conveyed in writing to the Hersham Community Council Steering Group who submitted the original petition. Officers will update the Council's web pages relating to the Review so that interested parties can read the related Council reports and the Council's decision, as well as issuing a press release to maximise the coverage in the local media. This is considered to be the most effective way of publicising the recommendations, decision and reasons.

### **Financial implications:**

The table below shows a breakdown of the best estimate of total costs spent on the consultation process and other costs associated with the CGR:

<b>Activity</b>	<b>Estimated costs to date £</b>
Printing and collation of Terms of Reference / Consultation document	4,017.77
Outgoing envelopes (no reply envelopes)	528.00
Outgoing postage (no incoming postage)	3,000.91
<b>TOTAL</b>	<b>£7,546.68</b>

In addition, and whilst more difficult to quantify, it is also acknowledged that additional resources in Officer time has been utilised in respect of undertaking this Community Governance Review, mainly within the Democratic Services Team, but also with support from Legal Services and Organisational Development Teams.

There is no specific budget provision for the conduct of the CGR or the consultation process required. At the conclusion of the process, a bid for funding from the Community Governance Review New Burdens Fund will be made to the Ministry of Housing, Communities and Local Government to recover identified costs. This Fund is available to support local authorities that are required to undertake a CGR.

**Environmental/Sustainability Implications:**

None for the purposes of this report.

**Legal implications:**

The Council will make its decision on next steps following the conclusion of the Community Governance Review by considering all the representations received and reaching a judgement on the basis of the statutory criteria. The principal duty placed on the Council is to have regard to the need to secure that community governance for the review area reflects the identities and interests of that community and is effective and convenient. Whatever the Council decides, it will publicise the outcome of the review with the reasons for the decision it has made. If the decision is to create a new council for the area, that step would be implemented by a reorganisation order. A copy of a model order can be obtained from the Housing Communities and Local Government website. The order will include a map showing the effects of the decision in detail. The order and map would be deposited at the Civic Centre and be made available for public inspection.

**Equality Implications:**

The relevance of the public sector equality duty to the recommendation in this report is considered to be negligible and the Council's decision is not expected to have any disproportionate impact on people with protected characteristics under equalities legislation.

**Risk Implications:**

Failure to undertake a Community Governance Review in accordance with legislation and guidance would damage the reputation of the Council. The Council agreed a Terms of Reference for the Community Governance Review and this report sets out the outcome of the Review, including the results of the consultation.

**Community Safety Implications:**

None for the purposes of this report.

**Principal Consultees:**

Chief Executive  
Head of Legal Services

**Background papers:**

None.

**Enclosures/Appendices:**

Appendix 'A' – Terms of Reference of the Community Governance Review including map  
Appendix 'B' - Consultation Questions and Outcome of the Consultation  
Appendix 'C' - Results of the Borough Elections – May 2018

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